



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

AUSTIN PAIN ASSOCIATES
SUITE 401
2501 WEST WILLIAM CANNON DRIVE
AUSTIN TX 78745

Respondent Name

TEXAS MUTUAL INSURANCE CO

Carrier's Austin Representative

Box Number 54

MFDR Tracking Number

M4-10-4372-01

MFDR Date Received

June 15, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per CCI 72275 does bundle with 64483 on the same day, but is allowed on same day with -59 modifier(s) to show that is separate service. I have already submitted claim with -59 modifier on 72275 and have attached again for reprocessing. I have enclosed a copy of the AMA CPT 2010 description of filing 72275 along with code 64483, it clearly states to report separately if performed and documented. Also enclosed is the Radiology Guidelines section of the AMA CPT 2010 that states that if epidurography-72275 is distinct from other procedures/services provided at that time, it may reported by itself, or in addition to other procedures/services by appending modifier 59 to the specific 'separate procedure' code to indicate that the procedure is not considered to be a component of another procedure, but is a distinct, independent procedure..."

Conscious sedation should also be paid separately as in Appendix G on the CPT 2010; you will see that conscious sedation-99144 is not party of primary code 64483. We are correct in billing the 99144 for reimbursement. I have attached -59 modifier to show that is separately reimbursable."

Amount in Dispute: \$814.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual maintains its position as communicated through its EOBs."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 18, 2010	72275 and 99144	\$814.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.

3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- Note: 72275-The AMA CPT Book states codes designated as separate procedure are reported only when performed independently of and not immediately to the other services. The epidurogram would not be performed independently; therefore, this service is considered an integral part, of and global to the injection procedure.
- CAC-45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement
- CAC-97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
- 217 – The value of this procedure is included in the value of another procedure performed on this date
- 793 – Reduction due to PPO contract. PPO contract was applied by Focus
- CAC-W4 – No additional reimbursement allowed after review of appeal/reconsideration.
- 891 – No additional payment after reconsideration

Issues

1. Was the workers' compensation insurance carrier entitled to pay the health care provider at a contracted rate?
2. Did the requestor bill in conflict with the NCCI edits?
3. Is the requestor entitled to reimbursement for CPT code 99144?
4. Did the requestor submit documentation to support fair and reasonable reimbursement for CPT code 99144?

Findings

1. The insurance carrier reduced disputed services with reason code "CAC-45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement." Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on September 22, 2010, the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.

2. Per 28 Texas Administrative Code § 134.203 "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

The requestor seeks reimbursement for CPT codes 72275 and 99144 rendered on March 18, 2010. The disputed services were denied/reduction with denial/reduction codes "CAC-97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated" and "217 – The value of this procedure is included in the value of another procedure performed on this date."

The division completed NCCI edits to identify edit conflicts that would affect reimbursement. The following was identified.

The requestor billed the following CPT codes on March 18, 2010: 64483, 64484, 72275-26-59 and 99144-59. The following NCCI edits were identified; "Per CCI Guidelines, Procedure Code 72275 [EPIDUROGRAPHY RS&I] has a CCI conflict with Procedure Code 64483 [NJX ANES&/STRD W/IMG TFRML EDRL LMBR/SAC 1 LVL]. Review the documentation to determine if a modifier is appropriate."

The requestor appended modifier -59 to CPT code 72275. The CPT Manual defines modifier -59 as follows: Modifier -59: "Distinct Procedural Service: Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries)not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."

A review of the submitted documentation does not meet the documentation requirements for appending a modifier -59, as a result, reimbursement for CPT code 72275-26-59 is not recommended.

No NCCI edits were identified for CPT code 99144, as a result the disputed service is reviewed pursuant to 28 Texas Administrative Code §134.203 (c).

3. Per 28 Texas Administrative Code §134.203 “(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year.”

Per 28 Texas Administrative Code §134.203 “(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of §134.1 of this title.”

CPT code 99144 is defined as “Moderate sedation services (other than those services described by codes 00100-01999) provided by the same physician or other qualified health care professional performing the diagnostic or therapeutic service that the sedation supports, requiring the presence of an independent trained observer to assist in the monitoring of the patient's level of consciousness and physiological status; age 5 years or older, first 30 minutes intra-service time.”

The CPT code 99144 is not valued by Medicare, as a result, reimbursement is determined pursuant to 28 Texas Administrative Code §134.1.

4. Former 28 Texas Administrative Code §133.307(c)(2)(G), effective May 25, 2008, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:

- The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for reimbursement is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. As a result, reimbursement for CPT code 99144 cannot be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	November 14, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.